

(B) The regulatory provisions include: Vermont Environmental Protection Rules, Chapter 8, Sections 104 through 106.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Title 10 Vermont Statutes Annotated, Chapter 59, Section 1929, insofar as it refers to registration requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

(B) Vermont Environmental Protection Rules, Chapter 8, Section 301, registration requirements, and Section 605(2), permanent closure requirements, insofar as they refer to tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

(2) *Statement of legal authority.* (i) “Attorney General’s Statement for Final Approval,” signed by the Attorney General of Vermont on April 11, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Vermont to EPA, April 11, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application in May 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application in May 1991, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* On March 2, 1992, EPA and the Vermont

Department of Environmental Conservation signed the Memorandum of Agreement. Though not incorporated by reference, the Memorandum of Agreement is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[60 FR 47301, Sept. 12, 1995]

§ 282.96 Virginia State-Administered Program.

(a) The State of Virginia’s underground storage tank program is approved in lieu of the Federal program in accordance with Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State’s program, as administered by the Virginia Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Virginia underground storage tank program on September 28, 1998, and approval was effective on October 28, 1998.

(b) Virginia has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) To retain program approval, Virginia must revise its approved program to adopt new changes to the Federal Subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Virginia obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

(d) Virginia has final approval for the following elements submitted to EPA in the State’s program application for final approval. On September 28, 1998, EPA published notice of approval of the State’s program in the FEDERAL REGISTER, 63 FR 51528. That approval

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became effective on October 28, 1998. Copies of Virginia's program application may be obtained from the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, VA 23240-0009.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph, with the exception of the provisions cited in paragraphs (d)(1)(ii) and (iii) of this section, are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Virginia Statutory Requirements Applicable to the Underground Storage Tank Program, 1998.

(B) Virginia Regulatory Requirements Applicable to the Underground Storage Tank Program, 1998.

(ii) EPA considered the following statutes in evaluating the State program, but did not incorporate them by reference.

(A) The statutory provisions include:

(1) Code of Virginia, Title 10.1, Subtitle II, Chapter 11.1: Department of Environmental Quality, Article 1: General Provisions

Section 10.1-1186 General powers of the department

(2) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law, Article 2: Control Board Generally

Section 62.1-44.14 Chairman; Executive Director; employment of personnel; supervision; budget preparation

Section 62.1-44.15 Powers and duties

(3) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law, Article 5: Enforcement and Appeal Procedure

Section 62.1-44.20 Right to entry to obtain information

Section 62.1-44.21 Information to be furnished to Board

Section 62.1-44.21 Private rights not affected

Section 62.1-44.23 Enforcement by injunction

Section 62.1-44.23:1 Intervention of Commonwealth in actions involving surface water withdrawals

Section 62.1-44.24 Testing validity of regulations; judicial review

Section 62.1-44.25 Right to hearing

Section 62.1-44.26 Hearings

Section 62.1-44.27 Rules of evidence in hearings

Section 62.1-44.28 Decisions of the Board in hearings pursuant to § 62.1-44.15 and 62.1-44.25

Section 62.1-44.29 Judicial review

Section 62.1-44.30 Appeal to Court of Appeals

(4) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law, Article 6: Offenses and Penalties

Section 62.1-44.31 Violation of special order or certificate or failure to cooperate with Board

Section 62.1-44.32 Penalties

(iii) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the approved program, and are not incorporated by reference. These provisions are not federally enforceable.

(A) The statutory provisions include:

(1) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law

Section 62.1-44.34:8 Definitions, "Aboveground storage tank" and "Regulated substance"

(2) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law, Article 10: Petroleum Storage Tank Fund

Section 62.1-44.34.10 Definitions, "Aboveground storage tank" and "Regulated substance"

Section 62.1-44.34:13 Levy of fee for Fund maintenance

(B) The regulatory provisions include Virginia Administrative Code, Title 9, Agency 25: State Water Control Board, Chapter 580: Underground Storage Tanks—Technical Standards and Corrective Action Requirements

9 VAC 25-580-10 Definitions, "Underground storage tank" includes heating oil tanks of greater than 5,000 gallon capacity and "Regulated substance"

9 VAC 25-580-130 General requirements for all petroleum and hazardous substance UST systems, heating oil tanks of greater than 5,000 gallon capacity

9 VAC 25-580-290 Corrective action plan (CAP) permit

(2) *Statement of legal authority.* (i) "Attorney General's Statement," signed by the State Attorney General on July 14, 1998, though not incorporated by reference, is referenced as

part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Virginia to EPA, July 14, 1998, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application on July 15, 1998, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application on July 15, 1998, though not incorporated by reference, are referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region III and the Virginia Department of Environmental Quality, signed by the EPA Regional Administrator on September 17, 1998, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[69 FR 33313, June 15, 2004]

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§ 282.98 West Virginia State-Administered Program.

(a) The State of West Virginia's underground storage tank program is approved in lieu of the Federal program in accordance with Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the West Virginia Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the West Virginia

underground storage tank program on September 23, 1997, and approval was effective on February 10, 1998.

(b) West Virginia has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) To retain program approval, West Virginia must revise its approved program to adopt new changes to the Federal Subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If West Virginia obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

(d) West Virginia has final approval for the following elements submitted to EPA in the State's program application for final approval. On September 23, 1997, EPA published notice of approval of the State's program in the FEDERAL REGISTER, 62 FR 49620. That approval became effective on February 10, 1998 (63 FR 6667). Copies of West Virginia's program application may be obtained from the West Virginia Department of Environmental Protection, 1356 Hansford Street, Charleston, WV 25301-1401.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph, with the exception of the provisions cited in paragraphs (d)(1)(ii) and (iii) of this section, are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) West Virginia Statutory Requirements Applicable to the Underground Storage Tank Program, 1997.

(B) West Virginia Regulatory Requirements Applicable to the Underground Storage Tank Program, 1997.